

Weekly Summary of Cases **National Labor Relations Board**

Week of September 20-24, 2010, W-3279

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Summarized Board Decisions

Ferguson Enterprises, Inc. (7-CA-52306; 355 NLRB No. 189) Detroit, MI, September 22, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's findings that the Respondent violated the Act by suspending, and then laying off, all members of one of its utility crews after two members filed prevailing wage claims.

Charge filed by an Individual. Administrative Law Judge Mark Carissimi issued his decision March 3, 2010. Chairman Liebman and Members Pearce and Haves participated.

Aluminum Casting & Engineering Co., Inc. (30-CA-12855, et al.; 355 NLRB No. 190) Milwaukee, WI, September 22, 2010. [HTML] [PDF]

This case was before the Board on remand from the U.S. Court of Appeals for the Seventh Circuit, which had held that the Board erred in the underlying proceeding by failing to incorporate the Employer's unlawfully withheld wage increase into the employees' "base wage" from the date of the unfair labor practice to the end of their employment. Pursuant to the Seventh Circuit's decision, the Board issued the appropriate remedial order against the Employer for the violations found. The Seventh Circuit issued its decision on September 2, 2009.

Charges filed by the United Electrical, Radio and Machine Workers of America (UE). Chairman Liebman and Members Becker and Pearce participated.

Carpenters Local 1506 (Associated General Contractors of America, San Diego Chapter) (28-CC-946, et al., 355 NLRB No. 191), San Diego, CA, September 22, 2010. [HTML] [PDF]

The Board found that the union did not violate the Act by displaying banners proclaiming a "labor dispute" at locations of employers not engaged in a primary labor dispute with the union. The Board relied on its recent decision in Carpenters Local 1506 (Eliason & Knuth of Arizona) dismissing an identical allegation regarding similar conduct. Member Hayes dissented, reiterating the views stated in his joint dissent with former Member Schaumber in Eliason &

Knuth that the display of banners was unlawful under the Act. The parties submitted the case directly to the Board by a joint motion to transfer the case, without a prior hearing before an administrative law judge.

Charges filed by the Associated General Contractors of America, San Diego Chapter, the Westin Bonaventure Hotel and Suites, Eliason & Knuth of Arizona, and the InterContinental Hotels Group. Members Becker, Pearce and Hayes participated.

Art's Way Vessels, Inc. (33-CA-15771; 355 NLRB No. 192) Dubuque, IA, September 22, 2010. [HTML] [PDF]

The Board found that the employer violated the Act by unlawfully withdrawing recognition from the union, repudiating the collective-bargaining agreement, and making unilateral changes to employees' terms and conditions of employment. The Board ordered the employer to recognize the union, adhere to the collective-bargaining agreement's terms, rescind the unilateral changes, refrain from these unlawful actions in the future, make employees whole for losses resulting from the unilateral changes, and reimburse the union for any unpaid dues. (The Board, on exceptions, rejected the employer's affirmative defenses that the charge was untimely under Section 10(b) of the Act and that the employer was relieved of its obligation to bargain with the union because another company was the employer's "de facto successor.")

Charge was filed by the International Association of Machinists and Aerospace Workers, AFL-CIO. Administrative Law Judge Paul Bogas issued his decision December 23, 2009. Chairman Liebman and Members Becker and Pearce participated.

Infinity Scaffold, Inc. (19-CA-32239; 355 NLRB No. 182) Seattle, WA, September 20, 2010. [HTML] [PDF]

The Board granted the Acting General Counsel's Motion for Default Judgment based on the Respondent's failure to file an answer to the complaint. Charge filed by Pacific Northwest Regional Council of Carpenters. Members Becker, Pearce and Hayes participated.

Hawk One Security, Inc. (5-CA-35150; 355 NLRB No. 185) Washington, DC, September 21, 2010. [HTML] [PDF]

The Board granted the Acting General Counsel's Motion for Default Judgment based on the Respondent's failure to file an answer to the complaint. Charge filed by Service Employees International Union, Local 32BJ and Local 21, United Government Security Officers of America, Party in Interest. Chairman Liebman and Members Pearce and Hayes participated.

Elmhurst Lincoln Mercury (13-CA-45873; 355 NLRB No. 186) Elmhurst, IL, September 21, 2010. [HTML] [PDF]

The Board granted the Acting General Counsel's Motion for Default Judgment based on the Respondent's failure to file an answer to the complaint. Charge filed by Automobile Mechanics

Local 701, International Association of Machinists and Aerospace Workers, AFL-CIO. Chairman Liebman and Members Pearce and Hayes participated.

Elmhurst Lincoln Mercury (13-CA-45759; 355 NLRB No. 187) Elmhurst, IL, September 21, 2010. [HTML] [PDF]

The Board granted the Acting General Counsel's Motion for Default Judgment based on the Respondent's failure to file an answer to the complaint. Charge filed by Automobile Mechanics Local 701, International Association of Machinists and Aerospace Workers, AFL-CIO. Members Becker, Pearce, and Hayes participated.

Unpublished Board Decisions in Representation Cases

Barrier West, Inc. (19-RC-15300) Aberdeen, WA, September 22, 2010. The Board considered an objection to an election held May 24, 2010, and the Regional Director's report recommending disposition of it. The Board reviewed the Regional Director's report and the Employer's exceptions and brief, and adopted the Regional Director's findings and recommendations, and found that a certification of representative should be issued. Petitioner – International Association of Machinists and Aerospace Workers, District Lodge W-1. Chairman Liebman and Members Becker and Hayes participated.

Covenant Care, LLC d/b/a Huntington Park Nursing and Rehabilitation (21-RC-21140) Huntington Park, CA, September 23, 2010. The Board considered objections to an election held July 7, 2009, and the Hearing Officer's report recommending disposition of them, the Board reviewed the record in light of the exceptions and briefs, adopted the Hearing Officer's findings and recommendations with some modifications, and found that a certification of representative should be issued. Petitioner – SEIU, Service Employees International Union. Chairman Liebman and Members Pearce and Hayes participated.

Preschool of America, Inc. (2-RC-23509) New York, NY, September 22, 2010. Board Order denying Employer's request for review of the Regional Director's decision and direction of election. Petitioner – Community and Social Agency Employees' Union, District Council 1707, AFSCME, AFL-CIO. Chairman Liebman and Members Becker and Hayes participated.

Avery Manor Nursing, LLC (1-RC-22460) Needham, MA, September 24, 2010. No exceptions having been filed to the Hearing Officer's report recommending disposition to an election held June 25, 2010, the Board adopted the Hearing Officer's findings and recommendations, and found that a certification of representative should be issued. Petitioner – 1199 SEIU United Healthcare Workers East.

Brown and Brown Chevrolet Hyundai, Inc. (33-RC-5152) Bradley, IL, September 24, 2010. No exceptions having been filed to the Regional Director's report recommending disposition of challenged ballots in an election held July 1, 2010, the Board adopted the Regional Director's findings and recommendations and directed the Regional Director to open and count ballot. Petitioner – Fraternity of Automotive Retailing Technicians and Sorority.

Decisions of Administrative Law Judges

JI Shiang, Inc. (29-CA-29927; JD(NY)-36-10) Flushing, NY. Charge filed by Local 318, Restaurant Workers' Union. Administrative Law Judge Steven Fish issued his decision September 20, 2010. [HTML] [PDF]

Sutter West Bay Hospitals d/b/a California Pacific Medical Center, A Sutter Health Affiliate (20-CA-34705, 34899; JD(SF)-37-10) San Francisco. Charges filed by California Nurses Association/National Nurses Organizing Committee (CNA/NNOC). Administrative Law Judge Gerald A. Wacknov issued his decision September 21, 2010. [HTML] [PDF]

Southern Maryland Electric Cooperative, Inc. (5-CA-35552; JD-56-10) Hughesville, MD. Charge filed by International Brotherhood of Electrical Workers, Local 1718, AFL-CIO. Administrative Law Judge John T. Clark issued his decision September 22, 2010. [HTML] [PDF]

Caribbean International News Corporation, d/b/a El Vocero de Puerto Rico, Inc., and News Distributor or Puerto Rico, LLC. (24-CA-11237; JD-57-10) San Juan, PR. Charge filed by Union de Periodistas, Artes Graficas Y Ramas Anexas (UPAGRA), Local 33225, affiliated with The Newspaper Guild, CWA, AFL-CIO. Administrative Law Judge Michael A. Rosas issued his decision September 24, 2010. [HTML] [PDF]

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